



NEWS RELEASE

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Gift Cards and Certificates Are Great — But Be Aware of State Law

Return and Exchange Rules Are Also Good to Know as Holiday Shopping Season Nears

With the holidays fast approaching, the Department of Consumer Affairs is reminding consumers that California has specific rules regarding one of the most popular gifts of the shopping season, gift cards, and what in itself has become a holiday ritual: returns and exchanges.

“Given the rash of bankruptcies and other economic difficulties the State is facing, being aware of the issues surrounding gifts cards, and returns and exchanges is more important than ever,” says Carrie Lopez, Director of the Department of Consumer Affairs.

Gift Cards

Gift Certificates are becoming increasingly popular to give during the holiday season. Surveys show 40-50 percent or more of consumers purchase gift certificates for the holidays. According to the National Retail Federation, \$26.3 billion was spend on them last year.

California law protects gift card givers and recipients from expiration dates and dormancy fees in many cases, but it's important for consumers to understand when the protections apply and when they don't.

In most cases California law treats a plastic gift card the same as a paper certificate. Consumer protections vary depending on the type of business that sold the card, and on the type of product or service for which the card is used.

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Both state and federal law prohibits the sale of gift cards and certificates in a deceptive manner, so it's illegal for sellers to conceal conditions, restrictions or fees.

Single Store Cards: The type of card or certificate that comes with the best consumer protections is the traditional gift certificate or card, sold by a single business and used for goods or services from that business or its affiliates. Expiration dates and service fees, including dormancy fees, are prohibited for this type of card, with limited exceptions.

A business doesn't have to redeem a gift card or certificate, or the balance left after a purchase, for cash if the balance is \$10 or more. They can redeem it with another certificate or card for the remaining value. But if the balance left is less than \$10, the consumer can demand the remainder in cash.

Single-store cards can have a dormancy fee if: the value drops to \$5 or below; the fee is \$1 or less per month; the card has been inactive for 24 consecutive months; and the owner can pay to re-charge it with value to over \$5. The dormancy fee must be fully disclosed in advance and printed on the card.

An exception — to the rule of no expiration dates for cards good at a single business or its affiliates — is a gift card or gift certificate for a food item. Cards or certificates for food items — other than restaurant meals — can have expiration dates, as long as that fact is printed in 10-point type on the front of the card or certificate.

Restaurant gift certificates good for meals cannot have expiration dates. Restaurants issuing gift certificates, either directly or through affiliates, must accept the certificate even if it's an older certificate with a posted expiration date, if that certificate was issued after January 1997.

Another exception is gift certificates distributed free as a premium or promotion, or sold below face value at a volume discount to employers or to nonprofit and charitable

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organizations for fundraising purposes. These can have expiration dates, but the date must be printed on the front of the card in 10-point type.

Mall or Other Multiple-Store Gift Certificates: California law doesn't protect consumers from service fees and expiration dates when it comes to gift certificates or cards good at multiple, unaffiliated businesses. So many popular gift certificates and cards can have these fees and restrictions, including cards sold by malls and banks.

If such a card or certificate has an expiration date, that fact has to be printed on the card or certificate. Fees must also be disclosed to purchasers.

Consumers should weigh the benefits of these cards against the costs. Cards from malls and banks allow shopping for gifts at many different stores. But the gift card recipient may see the value of the gift card reduced or eliminated by expiration dates or dormancy fees.

Gift Cards Sold by Banks: Bank gift cards can be used at multiple, unaffiliated businesses, so California laws prohibiting expiration dates and service fees, including dormancy fees, do not apply. However, California does require any expiration date to be printed on the card.

Bank gift cards usually tap into a leading credit card network, offering flexibility and convenience, including the option of replacement for a lost card. But they can also come with a variety of fees, such as purchase fees, monthly fees, inactivity fees, transaction fees, balance-inquiry fees and replacement fees for lost cards. Consumers should shop around for the best deal, advise recipients of all terms and conditions, record the card number and retain all receipts.

In recent years, federal banking regulators have ordered national banks to provide greater disclosures to consumers, putting the expiration date on the front of cards, disclosing the amount of any monthly maintenance or inactivity fees, and providing a phone number or Web address where consumers can get detailed information.

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Gift Cards and Bankruptcies: In the event that the store goes out of business before the gift card is redeemed, the consumer's only choice is to file a claim with the bankruptcy court to redeem the card. The consumer is considered an unsecured creditors, and is usually far down the list of creditors. Therefore, it is a good practice for consumers to use a gift card promptly.

Refunds & Exchanges

California law protects retail customers from unfair or deceptive return practices. But the law allows retailers to impose conditions on returns -- such as restocking fees -- as long as customers are advised of the conditions prior to purchase.

The law says the common consumer expectation is for a store to provide a refund, credit or exchange if the customer returns the product within seven days with proof of purchase. If a retailer selling to California customers has a return policy that differs from this standard, they must disclose it. If no return policy is posted, the standard policy should apply.

If a retailer has a return policy that has additional conditions, such as charging restocking fees, or requiring the customer to bring back the product in the original packaging, they must conspicuously display their nonstandard return policy.

Return policies with extra conditions or fees have to be posted prominently in at least one of the following places:

- on signs by entrances;
- on signs at cash registers;
- on product tags; or
- on order forms.

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Consumers should always ask if they aren't sure what the return policy is. It's important to consider time limits that affect returns, especially when gifts are purchased far in advance. By considering return policies while shopping, gift givers can factor them into the purchasing decision and spare the gift recipient excessive fees or restrictive conditions.

The laws on return policies apply to all companies who sell retail goods to California consumers, at stores, by mail or online.

- If a store is not offering the standard return policy, they have to tell customers at least the following about their policy:
- whether a cash refund, store credit or exchange will be given for the full amount of the purchase price;
- the time period during which the customer may return the merchandise;
- the types of merchandise covered by the policy;
- any other conditions that govern the refund, credit, or exchange of merchandise, such as paying a restocking fee, providing original packaging, or having proof of purchase.

There are exceptions for merchandise that isn't returnable. Retailers don't have to offer refunds or exchanges for perishable items like food, flowers, and plants. Other exceptions are goods damaged by the customer, goods sold with warnings like "as is" or "all sales final," and goods that can't be returned for health considerations.

If a retailer violates the law on retail returns and refuses to accept a return or imposes hidden fees, they can be liable to the customer, in a civil court action such as small claims court, for at least the price of the goods. To have a claim, the customer must return or try to return the merchandise within 30 days of purchase.

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